



TEXAS ETHICS COMMISSION



****Overruled, Modified, Clarified, or Superseded****

ETHICS ADVISORY OPINION NO. 114

January 6, 1993

Lobby reporting requirements applicable to a "loose knit" group that holds a reception in Austin to promote a county. (AOR-129)

The Texas Ethics Commission has been asked about the activities of a group that organizes an event in Austin to promote a particular county. Members of the group visit state legislators and administrators of state agencies to discuss issues related to the county and to extend an invitation to a reception. The stated purpose of the visits and the reception is to promote the county. The reception is paid for through donations from county residents and businesses.

Lobby Registration by Entities

The requestor asks whether the group, described as a "loose knit county organization," is required to register under the lobby statute, chapter 305 of the Government Code. A "person" must register as a lobbyist if the person expends more than \$200 in a calendar quarter on the type of activities listed in Government Code section 305.006(b) to communicate directly with members of the legislative or executive branch to influence legislation or administrative action.¹ Gov't Code § 305.003(a); 17 Tex. Reg. 4444 (1992) (to be codified at title 1, section 40.1, of the Texas Administrative Code); *see* Gov't Code § 305.002(1), (4), (6), (7) (defining "administrative action," "member of the executive branch," "legislation," and "member of the legislative branch").

The registration requirement applies to a "person." "Person" for purposes of the lobby statute includes a "group of persons who are voluntarily acting in concert." Gov't Code § 305.002(8); *see also* [Ethics Advisory Opinion No. 89](#) (1992) (discussing entity registration under the lobby statute). Therefore, the group described in the request letter would be required to register and report under the lobby statute if the expenditures for the reception are attributable to the group for purposes of the lobby statute.²

If the expenditures are made directly from group funds--for example, from a group checking account or with a credit card issued to the group--the expenditures are attributable to the group for purposes of the lobby statute. [Ethics Advisory Opinion No. 89](#) at 2 (1992). In contrast, if an individual makes expenditures for which the individual receives reimbursement from group funds, the expenditures are attributable to the individual. *Id.*

Presence Requirement

A person required to register under the lobby statute may not make an expenditure for food, beverages, or entertainment unless he is present. Gov't Code §§ 305.006(f), 305.024(a)(7). The Ethics Commission has issued several opinions considering how an entity may satisfy this requirement. [Ethics Advisory Opinions Nos. 94, 92, 90, 89](#) (1992). In the situation described most of the members of the group will be present at the reception. Therefore the presence requirement would be satisfied.

Meals

Another question raised is whether the group may buy meals for legislators and agency administrators. Both the lobby statute and chapter 36 of the Penal Code contain provisions relevant to this question. The lobby statute requires a registrant to report an expenditure for a meal and to be present at the meal, but does not prohibit such an expenditure.

Under section 36.08(f) of the Penal Code members of the legislature are prohibited from accepting "any benefit from any person." Officers and employees of executive branch agencies are subject to prohibitions on the acceptance of benefits from certain persons. Penal Code § 36.08; *see also id.* § 36.09 (prohibition on offering benefits). Although a meal may be a benefit, there is an exception to the prohibitions on offer and acceptance of benefits for food accepted as a guest and reported in accordance with any applicable reporting requirements.³ Penal Code § 36.10(b), (c); [Ethics Advisory Opinions Nos. 64](#) (food and beverages provided at a reception as "benefits"), [60](#) (1992) (a \$60 meal is a "benefit" for purposes of Penal Code chapter 36). To satisfy the "guest" part of the exception, the host must be present.⁴ *See Ethics Advisory Opinions Nos. 90, 12* (1992). The other part of the exception is that any applicable reporting requirements be complied with. In the circumstances described, the person providing the meal would be required to report the meal under the lobby statute.⁵ The recipient would not be required to report the meal.

Filing as a Political Committee

The requestor also asks if the group of residents must file as a political committee. If a group has as a principal purpose making political contributions or making political expenditures, it is a political committee. Elec. Code § 251.001(12) (defining "political committee"). The expenditures for the reception and meals are not political contributions or expenditures. *Id.* § 251.001(5), (10) (defining "political contribution" and "political expenditure"). Thus the group in question would not have to file as a political committee because of the activity described in this request.

SUMMARY

A "loose knit group" may be required to register under the lobby statute. If a group has as a principal purpose making political contributions or making political expenditures, it is a political committee.

¹ There is also a "compensation or reimbursement" threshold for lobby registration. Gov't Code § 305.003(a)(2); 17 Tex. Reg. 4444 (1992) (to be codified at title 1, section 40.3, of the Texas Administrative Code). The facts described in this request, however, raise questions only under the "expenditure" threshold.

² Because expenditures for food, beverages, or entertainment at the reception would be made in order to communicate to influence legislation or administrative action, such expenditures would require lobby registration and reporting, assuming that the expenditures for the reception exceed \$200. *See Ethics Advisory Opinions Nos. 94, 4* (1992) (communications to influence include communications intended to generate goodwill toward an organization).

³ Section 36.02 of the Penal Code prohibits bribery. Bribery involves the solicitation, offer, or acceptance of a benefit as consideration for official action. The "guest" exception is not applicable to the prohibition against bribery.

⁴ Again, the presence of the group members in this situation would satisfy the "presence" requirement.

⁵ This reporting requirement would apply only if the person providing the meal had crossed one of the lobby registration thresholds.